IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4716 OF 1997

Shri Meghashyam K.Sawekar, .. Petitioner
Vs
1. Neminath Jain Brahmacharya
Ashram and 5 ors. .. Respondents

Mr Pramod N. Joshi, for the petitioner.
AGP for respondent nos 4 and 5.
Mr Y.R.Mishra, for respondent no.6.
Mr V.S.Gokhale, AGP for respondent nos.1 to 3.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE,JJ.
DATE : APRIL 13, 2006.
PC:

1. In view of the decision of this Court (D.B.) in the case of Hakimsingh s/o Ram Singh Yadav Vs. Srivardhaman Sthanakwasi Jain Shravak Sangh and ors, reported in 2001 (1) Bom.C.R 313 the challenge to the status of respondent no.1 as a minority institution cannot be entertained.

2. The petitioner in fact is aggrieved by the decision of the School Tribunal in Appeal No.28 of 1996. The petitioner was the appellant and had challenged the promotion of respondent no.3 to the post of Head Master. It was contended by the petitioner in the said appeal that respondent no.1 is not a minority institution and, therefore, the appointment to the post of Head Master of Shri Neminath Jain Vidyalaya, Chandwad did not fall within

the purview of section 3(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977. The Tribunal held that respondent no.1 is a minority institute and it had powers to appoint an Assistant Teacher in the post of Head Master as per its choice and it was not necessary to follow normal rule of seniority. The view taken by the Tribunal is supported by the decision of this Court in Hakimsingh Ram Singh Yadav's case (supra).

3. Consequently, this petition fails and the same is hereby dismissed. Rule discharged.

(D.B.BHOSALE, J.) **(B.H.MARLAPALLE,J.)**